

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Guzman	Team: Squad #4	CCRB Case #: 201905594	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/15/2019 5:03 PM	Location of Incident: § 87(2)(b)	Precinct: 20	18 Mo. SOL 12/15/2020	EO SOL 8/1/2021	
Date/Time CV Reported Tue, 07/02/2019 7:00 PM	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Wed, 06/26/2019 11:27 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Philip Hirsh	04592	950589	020 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Yelena Ast	19612	958269	020 PCT
2. POM Yanson Filpo	11918	965719	020 PCT
3. POM Alan Schlissel	02333	944992	020 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Philip Hirsh	Abuse: Sergeant Philip Hirsh forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

## Case Summary

On June 26, 2019, § 87(2)(b) filed the following complaint with the CCRB's intake unit.

On June 15, 2019, at approximately 5:03 p.m., Sergeant Philip Hirsh, Police Officer Yelena Ast, Police Officer Yanson Filpo, Police Officer Alan Schlissel, and additional officers from the 20<sup>th</sup> Precinct responded to a call regarding an emotionally disturbed person at § 87(2)(b)'s home located at § 87(2)(b) Manhattan. § 87(2)(b) was forcibly removed to the hospital (**Allegation A: Abuse of Authority**, § 87(2)(g), § 87(2)(g), § 87(4-b)).

§ 87(2)(b) was not summonsed or arrested.

Body-Worn Camera (BWC) footage of the incident was obtained from all involved officers (IA's 80 through 85).

## **Findings and Recommendations**

**Allegation (A) Abuse of Authority: Sergeant Philip Hirsh forcibly removed § 87(2)(b) to the hospital.**

It is undisputed that § 87(2)(b) was removed to the hospital against his will.

EVENT no. § 87(2)(b) (BR 10) documents that on June 15, 2019, at approximately 5:03 p.m., § 87(2)(b) called 911 and complained that his neighbors were harassing him through his television. § 87(2)(b) insisted on making a report. § 87(2)(b) was classified as an emotionally disturbed person and violent, with no injuries or weapons. The event was marked as “54” which means ambulance case: emotionally disturbed person inside. At approximately 5:06 p.m., an ambulance was dispatched to § 87(2)(b)'s apartment.

§ 87(2)(b) testified (BR 02) that he called 911 to report that his neighbors were spying on him. Sgt. Hirsh, PO Schlissel, PO Filpo, and PO Ast arrived at § 87(2)(b)'s apartment. § 87(2)(b) opened the door to his apartment and told the officers to come in. § 87(2)(b) told the officers that his neighbors were spying on him. Sgt. Hirsh told § 87(2)(b) that he was concerned that he may be a harm to himself and was removing him to the hospital for his own safety. § 87(2)(b) repeatedly stated that he was not going to the hospital and told the officers that he needed them to see the equipment in the adjacent apartment to see that his neighbors were listening to him and reading his emails and texts messages. § 87(2)(b) was handcuffed and escorted outside by PO Ast. EMTs asked § 87(2)(b) questions regarding medicine he took and previous illnesses. § 87(2)(b) did not respond to the EMTs' questions.

Sgt. Hirsh's BWC (BR 01) depicts § 87(2)(b) at the threshold of his apartment's doorway, telling officers, "These neighbors from 11U are watching me from that apartment." Sgt. Hirsh then walks away from § 87(2)(b). At 3:45, Sgt. Hirsh requests the estimate time of arrival for the ambulance. Sgt. Hirsh then enters § 87(2)(b)'s apartment. § 87(2)(b) explains to officers that his neighbors are watching him through the television and the Wi-Fi. At 6:10, PO Ast says, "All right, well, here's what we're going to do. We're going to have EMS come up here so that they can talk to you, so you can tell them what's been going on." PO Schlissel asks § 87(2)(b) if he takes medication. § 87(2)(b) replies that he takes medication for his health. PO Schlissel asks, "What kind of health?" § 87(2)(b) replies, "I'm not going to discuss that with you." At 8:41, PO Ast tells § 87(2)(b) "You can take a seat." § 87(2)(b) states that he does not want to sit. Sgt. Hirsh says, "Either sit down, sir, or we are going to place you in handcuffs." § 87(2)(b) is compliant and sits down on his couch. For

approximately 10 minutes, § 87(2)(b) remains seated on the couch and the officers stand around in the living room as they await EMTs. Between 10:18 and 18:51, there is no conversation between § 87(2)(b) and the officers. Sgt. Hirsh exits the apartment and knocks on the adjacent door. At 19:11, a female EMT arrives, and says, "How are you?" Sgt. Hirsh replies, "He's 61 and thinks [inaudible] the Wi-Fi." The female and male EMTs enter § 87(2)(b)'s apartment. At 19:30, the female EMT asks, "What's going on, love?" § 87(2)(b) replies, "Nothing is happening." Sgt. Hirsh returns to § 87(2)(b)'s apartment and says, "Sir, just explain to them what you explained to us." The female EMT says, "I mean, we wouldn't have come all the way down here for no reason." § 87(2)(b) replies, "I'm just telling you, you're not doing anything to me...I'm going to show you something." § 87(2)(b) retrieves a paper and shows it to officers and EMTs, and states, "This is the company. I paid 2500 dollars to have this company come and this is what they say and this is what is being done. I don't need you to qualify [it]. If you don't believe me, that's the end of the conversation." The female EMT asks who the caller is. PO Ast states it was § 87(2)(b). Immediately thereafter, from 20:41 to 21:01, Sgt. Hirsh tells PO Ast, "Take him to the hospital." PO Ast responds, "Take him what?" Sgt. Hirsh says, "To the hospital." The male EMT asks § 87(2)(b) "Are you on any medication?" The EMTs ask § 87(2)(b) to show them his medication. § 87(2)(b) says no. At 21:01, the female EMT tells § 87(2)(b) that his behavior is not normal. PO Ast approaches § 87(2)(b). At 21:10, Sgt. Hirsh tells § 87(2)(b) "Sir, we're going to put you in handcuffs and we're going to take you to the hospital." § 87(2)(b) states, "I don't want to go to the hospital." Sgt. Hirsh responds, "There's no choice in this matter." PO Ast handcuffs § 87(2)(b).

Sgt. Hirsh's testimony (BR 03) was generally consistent with what is captured in his BWC recording. Sgt. Hirsh stated that § 87(2)(b) was calm, but irrational while speaking to the officers. Sgt. Hirsh described § 87(2)(b)'s removal to the hospital as a joint decision between himself and EMTs. Sgt. Hirsh determined the EMTs interviewed § 87(2)(b) and concurred with his determination that § 87(2)(b) needed to be removed to the hospital for psychiatric care because of § 87(2)(b)'s irrational thoughts. Sgt. Hirsh did not recall if § 87(2)(b) exhibited any behavior or made any statements that indicated he was a threat to himself or others, beyond § 87(2)(b)'s irrational statements that his neighbors were changing his Wi-Fi password through the walls, his Wi-Fi was through his head and that he was being controlled or had been controlled via air waves. Sgt. Hirsh was shown his BWC recording from 20:41 until 21:01. Sgt. Hirsh agreed that the footage depicted him telling PO Ast to remove § 87(2)(b) to hospital before the EMTs completed their evaluation of § 87(2)(b).

PO Ast stated (BR 05) that she spoke to the concierge of the building, who informed her that the neighbors § 87(2)(b) was accusing of spying on him were out of town. PO Ast also stated that EMS evaluated § 87(2)(b) and made the determination that he needed to go to the hospital. PO Ast was then shown footage from Sgt. Hirsh's BWC and PO Ast agreed that the footage showed Sgt. Hirsh made the decision for § 87(2)(b) to be removed to the hospital before the EMTs completed their evaluation of him.

Patrol Guide Procedure 221-13 defines an Emotionally Disturbed Person (EDP) as "a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others" (BR 06).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g), § 87(4-b)

### Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been party (BR 09).
- Sgt. Hirsh has been a member of service for eight years and has been a subject in two CCRB complaints, both of which were unsubstantiated.
- § 87(2)(g)

### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On January 16, 2020, a Notice of Claim was sent to the New York City Comptroller's Office and will be added to the case file upon receipt.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 09).

Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date